

VW Settlement

Beneficiary Mitigation Plan for the State of Washington

Semi-annual report

Background:

In 2015, the U.S. Environmental Protection Agency (EPA) issued a notice of violation to the automaker Volkswagen (VW) after it was discovered that the company illegally installed software on many of its diesel vehicles. The software allowed the vehicles to pass emissions tests when, in reality, they were emitting between 10 and 40 times the permitted levels of harmful nitrogen oxides.

These actions violated the federal Clean Air Act, violations that VW resolved in a series of settlements in 2016 and 2017. The settlements require VW to fund Environmental Mitigation Trust Agreements for State and Indian Tribe Beneficiaries. On March 15, 2017 the U.S. District Court for the Northern District of California (“the Court”) appointed Wilmington Trust, N.A. as the Trustee (the “Trustee”).

On November 3, 2017 Washington’s Governor Jay Inslee identified the Washington State Department of Ecology (Ecology) as the Lead Agency for purposes of Washington’s participation in the Environmental Mitigation Trust Agreement for State Beneficiaries (the “State Trust”). On January 29, 2018 the Trustee filed notice with the Court that Washington satisfied its filing requirements, in accordance with the State Trust agreement, identifying Washington as a State Trust beneficiary.

In accordance with the Trust agreement, the Trustee allocated Washington \$112.7M in federal settlement funds. The State Trust’s purpose is to fund environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the subject vehicles were, are, or will be operated. On November 6, 2019 Washington Filed its Beneficiary Mitigation Plan with the Trustee, which lays out spending priorities and high-level principles that will be used to guide the selection of eligible mitigation projects to meet the purpose of the State Trust.

Ecology submitted Washington’s first Eligible Mitigation Action (EMA) request which the Trustee approved on July 19, 2019. On September 17, 2019 Ecology received its first disbursement of trust assets. In accordance with the State Trust agreement, Ecology’s first semi-annual report is due no later than six months after receiving its first disbursement of Trust Assets.

Subsequent semi-annual reports are due no later than January 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year. Ecology will report on additional projects underway with budgeted VW funds in subsequent semi-annual reports.

Summary of All Costs

Reporting Period Ending: 6/30/2020	
Running Total of Settlement Funds Received	\$442,388.47
Total VW Funds Budgeted	\$74,000,000.00

Eligible Mitigation Action <i>Beneficiary Project ID</i>	Total Funds Budgeted	Total Funds Received	Project Funds		Administrative Funds	
			Budgeted	Received	Budgeted	Received
Scrap & replace or repower pre-2007 diesel transit buses with all-electric transit buses <i>EMA2-Transit-C1</i>	\$15,000,000	\$244,062.82	\$13,500,000	\$0	\$1,500,000	\$244,062.82
Repower Jumbo Mark II Diesel Ferry with Battery Electric Power (diesel-electric hybrid) <i>EMA4-Ferries-C1</i>	\$35,000,000	\$0	\$35,000,000	\$0	\$0	\$0
Purchase and Install Workplace LD ZEV SE at Government Owned Property <i>EMA9-Workplace-C1</i>	\$2,500,000	\$39,665.13	\$2,250,000	\$0	\$250,000	\$39,665.13
Scrap & replace pre-2007 diesel school buses with all-electric school buses <i>EMA2-School Bus-C1</i>	\$13,000,000	\$158,660.52	\$12,000,000	\$0	\$1,000,000	\$158,660.52
Purchase and Install Electric Vehicle Charging Infrastructure along High-Traffic Transportation Corridors in Washington <i>EMA9-Corridor-C1</i>	\$4,500,000	\$0	\$4,050,000	\$0	\$450,000	\$0
Shore Power for Ocean Going Vessels <i>EMA5-Shore Power-C1</i>	\$4,000,000	\$0	\$3,600,000	\$0	\$400,000	\$0
Total	\$74,000,000	\$442,388.47	\$70,400,000	\$0	\$3,600,000	\$442,388.47

Project Narrative

EMA ProjectID: EMA2-Transit-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with six transit authorities in Washington for about \$13,000,000 to purchase 47 all-electric transit buses. Transit authorities are preparing to order their buses. The Washington transit bus procurement contract recently expired. Upon availability of the new contract, Ecology grant awardees will purchase new electric transit buses. Awardees may develop their own electric transit bus procurement contract or purchase electric transit buses from another state's procurement contract. According to the Ecology grant agreements, Transit Authorities have until 6/30/21 to order their electric buses.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$85,720 during this (January – June, 2020) reporting period. Ecology anticipates submitting an Attachment A requesting reimbursement for these administrative costs from Wilmington Trust in August, 2020.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$93,750 and projects costs of zero in the next reporting period (July – December, 2020). Ecology expects to submit an Attachment A requesting reimbursement for these costs from Wilmington Trust in the January-June, 2021 reporting period.
Modifications to the Project Scope/Timeline	None at this time, although Ecology is monitoring the progress to update the Washington State Contract and will note any modifications to the timeline in subsequent reports.

EMA ProjectID: EMA4-Ferries-C1	
Expected Termination Date	6/30/2022
Project Status	Ecology has a signed grant agreement in place with Washington State Ferries (WSF) for \$35,000,000 for the conversion of a diesel ferry to a hybrid electric ferry. WSF issued contractor, Siemens, an official Notice to Proceed with design work for Part B, <i>Design for Hybrid Propulsion System Upgrade</i> . Siemens is scheduled to complete this phase of the project by July 19, 2020.
Summary of Costs Expended	Ecology recorded no expenditures during this reporting period.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing approximately \$3,000,000 in project costs in the next (July – December, 2020) reporting period. Ecology expects to submit an Attachment A requesting reimbursement for these costs from Wilmington Trust in the January-June, 2021 reporting period.

Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.
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EMA Project ID: EMA9-Workplace-C1	
Expected Termination Date	6/30/2022
Project Status	Ecology closed its competitive grant funding opportunity for this EMA in November, 2019. Ten state and local government agencies subsequently accepted Ecology's offer of about \$450,000 in awards to purchase and install 44 Level 2 chargers and 1 DCFC for the purpose of workplace charging. Ecology is developing grant agreements and expects to have grants in place with all ten agencies in the next reporting period.
Summary of Costs Expended	In January 2020, Ecology submitted an Attachment A and subsequently received reimbursement from Wilmington Trust for \$39,665.13 in administrative costs expended in the prior (July – December, 2019) reporting period. Ecology accrued additional administrative costs of approximately \$14,287 during this (January – June, 2020) reporting period. Ecology anticipates submitting an Attachment A requesting reimbursement from Wilmington Trust in August, 2020.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$15,625 and project costs of \$60,000 in the next (July – December, 2020) reporting period. Ecology expects to submit an Attachment A requesting reimbursement from Wilmington Trust for administrative and project costs in the January-June, 2021 reporting period.
Modifications to the Project Scope/Timeline	Ecology funded about \$450k in grants with this funding opportunity for which we allocated \$2.5 million in our D-4. Ecology is evaluating whether to develop a second funding opportunity or to modify the Project Scope and/or Timeline in our D-4 for this EMA.

EMA Project ID: EMA2-School Bus-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology closed its competitive grant funding opportunity for this EMA in December, 2019. Ecology awarded 22 school districts about \$12,000,000 to purchase 40 electric school buses and the associated charging infrastructure. Ecology is developing grant agreements and expects to have grants in place with all 22 school districts in the next reporting period. Most awardees are proceeding to order electric school buses.

Summary of Costs Expended	In January 2020, Ecology submitted an Attachment A and subsequently received reimbursement from Wilmington Trust for \$158,660.52 in administrative costs expended in the prior (July – December, 2019) reporting period. Ecology accrued additional administrative costs of approximately \$57,147 during this (January – June, 2020) reporting period. Ecology anticipates submitting an Attachment A requesting reimbursement from Wilmington Trust in August, 2020.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$62,500 and \$10,000,000 in project costs in the next (July – December, 2020) reporting period. Ecology expects to submit an Attachment A requesting reimbursement from Wilmington Trust for administrative and project costs in the January-June, 2021 reporting period.
Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.

EMA Project ID: EMA9-Corridor-C1	
Expected Termination Date	6/30/2022
Project Status	Ecology closed its competitive grant funding opportunity for this EMA in December, 2019. Ecology offered awards to 19 grant applicants for about \$4,000,000 to purchase and installation of 54 DCFC on Washington’s transportation corridors. Ecology is developing grant agreements and expects to have grants in place with all grant recipients in the next reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$25,716 during this (January – June, 2020) reporting period. Ecology anticipates submitting an Attachment A requesting reimbursement from Wilmington Trust in August, 2020.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$28,125 and \$1,500,000 in project costs in the next (July – December, 2020) reporting period. Ecology expects to submit an Attachment A requesting reimbursement from Wilmington Trust for administrative and project costs in the January-June, 2021 reporting period.
Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.

EMA Project ID: EMA5-Shore Power-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology closed its competitive grant funding opportunity for this EMA in June, 2020. Ecology is evaluating applications and expects to offer awards to successful applicants in July, 2020. Ecology will develop grant agreements with successful applicants and expects to have agreements in place by September, 2020.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$22,859 during this (January – June, 2020) reporting period. Ecology anticipates submitting an Attachment A requesting reimbursement from Wilmington Trust in August, 2020.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$25,000 and zero in project costs in the next (July – December, 2020) reporting period. Ecology expects to submit an Attachment A requesting a reimbursement from Wilmington Trust for administrative and project costs in the January-June, 2021 reporting period.
Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.

The information in this report is true and correct and submission is made under penalty of perjury.	<p>_____</p> <p>Laura Watson, Director Washington State Department of Ecology</p>	<p>_____</p> <p>Date</p>
	<p>_____</p> <p>Heather R. Bartlett, Deputy Director Washington State Department of Ecology</p>	<p>_____</p> <p>Date</p>